

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAMION NEVILLS, JR., #847918,

Petitioner,

v.

CASE NO. 17-CV-12464 HONORABLE
MARK A. GOLDSMITH

RANDALL HASS,

Respondent.

**ORDER DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS ON
APPEAL AND TRANSFERRING REQUEST TO THE SIXTH CIRCUIT**

This matter is before the Court on Petitioner's application to proceed in forma pauperis on appeal (Dkt. 15) concerning the denial of his petition for a writ of habeas corpus. The Court, however, denied a certificate of appealability and denied leave to proceed in forma pauperis on appeal in its opinion and order denying the petition (Dkt. 12). Consequently, the Court will construe Petitioner's current application as a request for reconsideration. See Jackson v. Crosby, 437 F.3d 1290, 1294 n.5 (11th Cir. 2006); Lyons v. Lafler, No. 2:10-CV-11386, 2013 WL 812083, *1 (E.D. Mich. March 5, 2013); Pettigrew v. Rapelje, No. 08-12530-BC, 2008 WL 4186271, *1 (E.D. Mich. Sept. 10, 2008). The Court finds no reason to reconsider its prior decision. A motion for reconsideration which presents issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. Hence v. Smith, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); Czajkowski v. Tindall & Assoc., P.C., 967 F. Supp. 951, 952 (E.D. Mich. 1997). Such is the case here. Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction

thereof as required by Local Rule 7.1(h)(3). Accordingly, the Court denies the application to proceed in forma pauperis on appeal.

When a district court denies a certificate of appealability and denies leave to proceed in forma pauperis on appeal, the proper procedure is for the habeas petitioner to file a motion for a certificate of appealability and/or an application for leave to proceed in forma pauperis on appeal with the appellate court. See Sims v. United States, 244 F.3d 509 (6th Cir. 2011) (citing Fed. R. App. P. 22(b)(1)). Accordingly, in the interests of justice, the Court transfers the application to proceed in forma pauperis on appeal (Dkt.#15) to the United States Court of Appeals for the Sixth Circuit.¹

SO ORDERED.

Dated: July 26, 2019
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

¹The Court notes that Petitioner filed a notice of appeal [Dkt. #14] at the time he filed the instant application.